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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ELVIN JOHNNY LOPEZ-CRUZ,

11 Petitioner,

12 v.
13 UNITED STATES OF AMERICA,
14 Respondent.

CASE NO. C18-1575JLR
ORDER DIRECTING SERVICE
AND ANSWER, 28 U.S.C. § 2255
PETITION

15 Petitioner filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct
16 Petitioner's sentence. After a preliminary review of the motion pursuant to Rule 4 of the
17 Rules Governing Section 2255 Proceedings in United States District Courts, the court
18 hereby ORDERS:

19 (1) **Service.** Electronic posting of this order, Petitioner's motion, and all
20 documents in support thereof shall constitute effective service upon the United States
21 Attorney. The Clerk shall also direct a copy of this order to Petitioner.

(2) **Government's Answer.** Within forty-five (45) days after such service, the United States shall file and serve an Answer in accordance with Rule 5 of the Rules Governing Section 2255 Proceedings. As a part of such Answer, the United States shall state its position as to whether an evidentiary hearing is necessary, whether there is any cause to abuse or delay under Rule 9, and whether Petitioner's motion is barred by the statute of limitations. The United States shall file the Answer with the Clerk and serve a copy of the answer upon Petitioner.

(3) **Noting Date for Consideration.** On the face of the Answer, the United States shall note the Answer for consideration on the fourth Friday after it is filed (“the noting date”), and the Clerk shall note the Answer accordingly on the court’s electronic system. Petitioner may file and serve a responsive brief no later than the Monday immediately preceding the noting date. The United States may file and serve a reply no later than on the Thursday immediately preceding the noting date.

(4) **Filing and Service by Parties Generally.** All attorneys admitted to practice before this court are required to file documents electronically via the court's ECF system. The court directs counsel to the court's website, wawd.uscourts.gov, for a detailed description of the requirements for filing via ECF. All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file paper original of any document for the court's consideration.

A party filing a paper original does not need to file a hardcopy for chambers. For party filing electronically, when the total of all pages of a filing exceeds fifty (50) pages in length, a hardcopy of the document (with tabs or other organizing aids as

1 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy
2 must be clearly marked with the words "Courtesy Copy of Electronic Filing for
3 Chambers."

4 All filings, whether filed electronically or in traditional paper format, must
5 indicate in the upper right-hand corner the name of the judge to whom the document is
6 directed. Additionally, any document filed with the court must be accompanied by proof
7 that it has been served upon all parties that have entered an appearance in the matter.

8 (5) **Motions.** Any request for court action shall be set forth in a motion,
9 properly served upon all parties and filed with the court. Pursuant to Local Rule 7(b),
10 any argument offered in support of the motion shall be submitted as a part of the motion
11 itself and not in a separate document. The motion shall include in its caption
12 (immediately below the title of the motion) a designation of the date the motion is to be
13 noted for consideration upon the court's calendar.

14 (6) **No Direct Communication with Judge.** No direct communication is to
15 take place with the judge with regard to this case. All relevant information and papers
16 are to be directed to and filed with the Clerk.

17 Dated this 1st day of November, 2018.

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19 JAMES L. ROBART
20 United States District Judge
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